

BEFORE THE BOARD OF REAL ESTATE APPRAISERS

STATE OF IDAHO

ORIGINAL

In the Matter of the License of: ) Case Nos. REA-B2C-01-97-021  
) REA-L1C-01-99-003  
THOMAS L. OSBORN, )  
License No. CGA-45, )  
) **STIPULATION AND**  
) **CONSENT ORDER**  
Respondent. )

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**STIPULATION**

WHEREAS, information having been received by the Idaho State Board of Real Estate Appraisers (hereinafter the "Board") which constitutes sufficient grounds for the initiation of an administrative action against Thomas L. Osborn (hereinafter "Respondent"); and

WHEREAS, the parties mutually agree to settle the matter pending administrative Board action in an expeditious manner; now, therefore,

IT IS HEREBY STIPULATED AND AGREED between the undersigned parties that this matter shall be settled and resolved upon the following terms:

**A.**

1. The Board may regulate the practice of real estate appraisers in the State of Idaho in accordance with title 54, chapter 41, Idaho Code.

2. Respondent Thomas L. Osborn is a licensee of the Idaho State Board of Real Estate Appraisers and holds License No. CGA-45 to practice real estate appraisals in the State of Idaho. Respondent's license is subject to the provisions of title 54, chapter 41, Idaho Code.

3. Appraisals in the State of Idaho must comply with the minimum standards set forth in the Uniform Standards of Professional Appraisal Practices ("USPAP").

4. On or about March 10, 2000, the Bureau of Occupational Licenses filed an administrative Complaint with the Board against Respondent for alleged violations of USPAP and applicable statutory provisions.

5. The allegations contained in the Complaint, if proven, would constitute violations of the laws and rules governing the practice of real estate appraisals, specifically Idaho Code § 54-4107(e) and IDAPA 24.18.01.700. Violations of these laws and rules would further constitute grounds for disciplinary action against Respondent's license to practice real estate appraisals in the State of Idaho.

6. Respondent, in lieu of proceeding with a formal evidentiary hearing on the charges, hereby admits that he committed violations of USPAP Standards Rule 1-1(a), 1-1(c), 1-2(a), 1-3(a), 1-4(b)(i) and 2-1(b), as charged in Count One, ¶ 7 of the Complaint. Respondent further agrees that based upon these violations, the discipline against his license set forth in Section C below may be imposed.

**B.**

I, Thomas L. Osborn, by affixing my signature hereto, acknowledge that:

1. I have read and understand the allegations pending before the Board. I further admit to those allegations and violations as specified in Section A, 6 above. I further understand that these violations constitute cause for disciplinary action upon my license to practice real estate appraisals in the State of Idaho.

2. I understand that I have the right to a full and complete hearing; the right to confront and cross-examine witnesses; the right to present evidence or to call witnesses, or to so testify myself; the right to reconsideration; the right to appeal; and all rights accorded by the Administrative Procedure Act of the State of Idaho and the laws and rules governing the practice of real estate appraisals in the State of Idaho. I hereby freely and voluntarily waive these rights in order to enter into this stipulation as a resolution of the pending allegations.

3. I understand that in signing this stipulation I am enabling the Board to impose disciplinary action upon my license as described herein.

**C.**

Based upon the foregoing stipulation, it is agreed that the Board may issue a decision and order upon this stipulation whereby:

1. Respondent shall pay to the Board an administrative fine in the amount of One Thousand Dollars (\$1,000.00).

2. Respondent shall pay investigative costs and expenses in the amount of One Thousand-Six Hundred Dollars (\$1,600.00).

3. Respondent shall pay legal fees incurred in the prosecution of this matter in the amount of Three Thousand-Seven Hundred Dollars (\$3,700.00).

4. The fine, investigative costs and legal fees in the total amount of Six Thousand-Three Hundred Dollars (\$6,300.00), shall be paid by the Respondent in the manner specified in the next paragraph.

5. Respondent will be placed on probation for a period of two (2) years. The conditions of probation are as follows:

a. Respondent shall make equal monthly payments of Two Hundred-Sixty Two Dollars and 50/Cents (\$262.50) to satisfy the fines, investigative costs and legal fees imposed in this case. Payments must be in the form of check, money order or cashier's check. All payments must be either hand-delivered to the Bureau of Occupational Licenses (BOL), Owyhee Plaza, 1109 Main St., Suite 220, Boise, Idaho 83702-5642 or postmarked to the BOL no later than the first day of each month. Respondent's first \$262.50 payment shall be due and payable on the first day of the month next following the entry of the Board's Order approving this Stipulation. Payments shall be made each month thereafter until the entire \$6,300.00 obligation is paid in full.

b. Failure of the Respondent to make payments as specified in the preceding paragraph will constitute default. Upon default, Respondent will be given twenty (20) days to fully "cure" the default. If the default is not so cured, the entire remaining balance of the financial objections imposed by this Stipulation and Order will be accelerated and be immediately due and payable by the Respondent. Should the Respondent fail to pay the accelerated balance within five (5) days, the Board may suspend Respondent's real estate appraiser license until the fully accelerated balance is paid. If the balance is not paid within thirty (30) days, the Board may convert the suspension into a revocation of Respondent's license and commence appropriate legal action to collect the remaining balance. A dishonored or non-sufficient funds check shall constitute default.

c. Respondent shall comply with all state, federal and local laws, rules and regulations governing the practice of real estate appraisals in the State of Idaho.

d. Respondent shall inform the Board in writing of any change of place of practice or place of business within 15 days of such change.

e. In the event Respondent should leave Idaho to reside or to practice outside of the state, Respondent must provide written notification to the Board of the dates of departure, address of intended residence or place of business, and indicate whether Respondent intends to return. Periods of residency or practice outside of Idaho will not excuse compliance with the terms of this Stipulation.

f. Respondent shall fully cooperate with the Board and its agents in investigating any complaint made against him, and shall submit any documents or other information within a reasonable time after a request is made for such documents or information.

g. In connection with any complaint against him, Respondent shall allow the Board and its agents access to review any ongoing appraisals at any time upon reasonable notification.

6. At the conclusion of the two-year probationary period, Respondent must notify the Board that he has fully complied with all terms, obligations and requirements imposed by this Stipulation and Consent Order. Furthermore, if requested, the Respondent must cooperate in providing any additional proof of compliance with the terms of this Stipulation.

7. The violation of any of the terms of this Stipulation by Respondent will warrant further Board action. The Board therefore retains jurisdiction over this proceeding until all matters are finally resolved as set forth in this Stipulation.

**D.**

1. It is hereby agreed between the parties that this Stipulation shall be presented to the Board at its next regularly scheduled meeting, with a recommendation for approval from the Deputy Attorney General responsible for prosecution before the Board.

2. Respondent understands that the Board is free to accept, modify with Respondent's approval, or reject this Stipulation. Respondent hereby agrees to waive any right Respondent may have to challenge the impartiality of the Board to hear the disciplinary complaint if, after review by the Board, this Stipulation is rejected.

3. If the Stipulation is not accepted by the Board, it shall be regarded as null and void. Admissions by Respondent in the Stipulation will not be regarded as evidence against Respondent at the subsequent disciplinary hearing.

4. The Stipulation shall not become effective until it has been approved by a majority of the Board and endorsed by a representative member of the Board.

5. Any failure on the part of Respondent to timely and completely comply with any term or condition herein (other than default in payment, which has its own provisions and procedures under this Stipulation) shall be deemed a default.

6. Any default of this Stipulation and Consent Order shall be considered a violation of Idaho Code § 54-4107. If Respondent violates or fails to comply with this

Stipulation and Consent Order, the Board may impose additional discipline pursuant to the following procedure:

a. The Chief of the Bureau of Occupational Licenses shall schedule a hearing before the Board. Within twenty-one (21) days after the notice of hearing and charges is served, Respondent shall submit a response to the allegations. If Respondent does not submit a timely response to the Board, the allegations will be deemed admitted.

b. At the hearing before the Board upon default, the Board will determine whether to impose additional disciplinary action, which may include conditions or limitations upon Respondent's practice or suspension or revocation of Respondent's license. Any such hearing will be conducted in accordance with applicable provisions of the Idaho Administrative Procedures Act (title 67, chapter 52, Idaho Code), and the Idaho Attorney General's Model Rules of Practice and Procedure (IDAPA 04.11.01, *et seq.*).


7. The Board shall have the right to make full disclosure of this Stipulation and Consent Order and the underlying facts relating hereto to any state, agency or individual requesting information, subject to any applicable provisions of the Idaho Public Records Act.

8. This Stipulation and Consent Order contains the entire agreement between the parties, and Respondent is not relying on any other agreement or representation of any kind, verbal or otherwise.

I have read the above stipulation fully and have had the opportunity to discuss it with legal counsel. I understand that by its terms I will be waiving certain rights accorded me under Idaho law. I understand that the Board may either approve this stipulation as proposed, approve it subject to specified changes, or reject it. I understand that, if approved as proposed, the Board will issue an Order on this stipulation according to the aforementioned terms, and I hereby agree to the above stipulation for settlement. I understand that if the Board approves this stipulation subject to changes, and the changes are acceptable to me, the stipulation will take effect and an order modifying the terms of the stipulation will be issued. If

the changes are unacceptable to me or the Board rejects this stipulation, it will be of no effect.

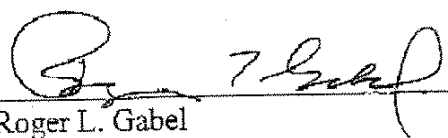
DATED this 15 day of Sept., 2000.

  
\_\_\_\_\_  
Thomas L. Osborn  
Respondent

I concur in this stipulation and order.

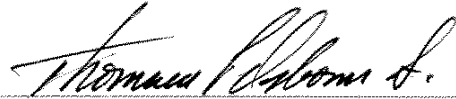
DATED this 12th day of September 2000.

STATE OF IDAHO  
OFFICE OF THE ATTORNEY GENERAL

By   
\_\_\_\_\_  
Roger L. Gabel  
Deputy Attorney General

the changes are unacceptable to me or the Board rejects this stipulation, it will be of no effect.

DATED this 15 day of Sept., 2000.




Thomas L. Osborn  
Respondent

I concur in this stipulation and order.

DATED this 12<sup>th</sup> day of September, 2000.

STATE OF IDAHO  
OFFICE OF THE ATTORNEY GENERAL

By 

Roger L. Gabel  
Deputy Attorney General



## ORDER

Pursuant to Idaho Code § 54-4106, the foregoing Stipulation is adopted as the decision of the Board of Real Estate Appraisers in this matter and shall be effective on the 18<sup>th</sup> day of September, 2000.

IT IS SO ORDERED.

IDAHO STATE BOARD  
OF REAL ESTATE APPRAISERS

By

R. Doyle Regnier  
Paul Morgan, Chair

*R. Doyle Regnier*

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18<sup>th</sup> day of September, 2000, I caused to be served a true and correct copy of the foregoing by placing a copy thereof in the United States Mail, postage prepaid, addressed to:

Thomas L. Osborn  
1660 N. Elton Lane  
Coeur d'Alene, ID 83814

Mark A. Jackson  
Rude, Jackson & Daugharty, L.L.P.  
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Deputy Attorney General  
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Thomas Limbaugh  
Thomas Limbaugh, Chief  
Bureau of Occupational Licenses